

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

HONORABLE JANIS L. SAMMARTINO
UNITED STATES DISTRICT JUDGE PRESIDING

UNITED STATES OF AMERICA,)	NOVEMBER 10, 2015
)	
PLAINTIFF,)	
)	
VS.)	NO. 14-CR-3668-JLS
)	
DANIELLE TRINITTI KOWNACKI,)	
)	SENTENCING HEARING
DEFENDANTS.)	

FOR THE PLAINTIFF:

RYAN A. SAUSEDO
U.S. ATTORNEY'S OFFICE
SOUTHERN DIST. OF CALIFORNIA
CRIMINAL DIVISION
880 FRONT STREET, SUITE 6293
SAN DIEGO, CA 92101

FOR THE DEFENDANT:

JOHN D. KIRBY
LAW OFFICE OF JOHN KIRBY
THE EXECUTIVE COMPLEX
1010 SECOND AVENUE, SUITE 1850
SAN DIEGO, CA 92101

THE COURT REPORTER: GAYLE WAKEFIELD, RPR, CRR

1 NOVEMBER 10, 2015

2 MORNING SESSION

3 THE CLERK: NUMBER 3 ON THE CALENDAR, 14-CR-3668,
4 UNITED STATES VS. DANIELLE TRINITTI KOWNACKI, FOR SENTENCING.

5 MR. KIRBY: GOOD MORNING, YOUR HONOR, JOHN KIRBY ON
6 BEHALF OF MS. KOWNACKI.

7 MR. SAUSED0: GOOD MORNING, AGAIN, YOUR HONOR, RYAN
8 SAUSED0 FOR THE UNITED STATES.

9 THE COURT: THANK YOU.

10 MR. KIRBY: YOUR HONOR, MS. KOWNACKI IS NOW PRESENT.

11 THE COURT: THE COURT HAS READ AND CONSIDERED THE
12 FOLLOWING DOCUMENTS FOR PURPOSES OF SENTENCING THIS MORNING: I
13 HAVE THE PRESENTENCE REPORT. THE ADDENDUM TO THE PRESENTENCE
14 REPORT. I HAVE THE DEFENDANT'S OBJECTIONS TO THE PRESENTENCE
15 REPORT. DEFENDANT'S SENTENCING MEMORANDUM. I HAVE A LETTER
16 SUBMITTED BY THE DEFENDANT. I HAVE A GOVERNMENT'S SENTENCING
17 SUMMARY CHART, AND THE UNDERLYING PLEA AGREEMENT. IS THAT
18 EVERYTHING?

19 MR. KIRBY: I BELIEVE IT IS, YOUR HONOR.

20 THE COURT: WITH REGARD TO YOUR OBJECTION, YOUR
21 OBJECTION IS PRIMARILY WITH REGARD TO THE FINE, CORRECT, MR.
22 KIRBY?

23 MR. KIRBY: YES, YOUR HONOR.

24 THE COURT: I'M NOT INCLINED TO IMPOSE A FINE. I
25 UNDERSTAND THE RECOMMENDATION. I UNDERSTAND WHY THEY'RE

1 SUGGESTING IT. AT THIS POINT I WOULD NOT BE INCLINED TO
2 INCLUDE A FINE.

3 LET ME TELL YOU A COUPLE OF THOUGHTS -- DID YOU WANT TO
4 SAY SOMETHING, MR. ENGLISH?

5 THE PROBATION OFFICER: I JUST WANT TO MAKE SURE THAT
6 THE COURT HAD THE SECOND ADDENDUM WHICH ADDRESSED THE
7 OBJECTION.

8 THE COURT: I HAVE THE ADDENDUM.

9 THE PROBATION OFFICER: I CAN PROVIDE THE COURT A COPY.

10 THE COURT: THERE'S A SECOND ADDENDUM?

11 THE PROBATION OFFICER: YES, IT'S VERY BRIEF. WOULD
12 THE COURT LIKE A COPY?

13 THE COURT: YES, PLEASE. YOU CAN GO AHEAD AND TELL ME
14 WHAT IT SAYS.

15 THE PROBATION OFFICER: WE JUST STAND ON OUR ORIGINAL
16 RECOMMENDATION AND NOTE THEIR OBJECTION.

17 THE COURT: SO THE SECOND ADDENDUM RECOMMENDS THE
18 \$21,000 FINE. MY TENTATIVE WOULD BE NOT TO INCLUDE A FINE.

19 IF THIS IS HELPFUL TO YOU, MR. KIRBY, IN ADDRESSING THE
20 COURT, I AM INCLINED AND -- TO GIVE 3 POINTS FOR ACCEPTANCE. I
21 AM NOT INCLINED TO INCLUDE, DESPITE WHAT HAPPENED IN THIS CASE,
22 MR. KIRBY, AND AGAIN THIS IS A REASONABLE POSITION FOR
23 PROBATION TO HAVE TAKEN, OBSTRUCTION OF JUSTICE. I AM NOT
24 INCLINED TO INCLUDE THAT, BUT, AGAIN, I WANT TO MAKE IT VERY
25 CLEAR THAT'S NOT AN UNREASONABLE POSITION GIVEN WHAT'S HAPPENED

1 HERE. I ALSO DON'T BELIEVE THAT GIVEN THE FACTS AND
2 CIRCUMSTANCES THAT YOUR CLIENT BRINGS BEFORE THE COURT THAT
3 MINOR ROLE IS WARRANTED.

4 IF IT'S HELPFUL TO YOU, WHATEVER DISCRETION THIS COURT
5 CHOOSES TO EXERCISE, IF ANY, IN THIS MATTER, AND PROBABLY SOME
6 IS APPROPRIATE, SIR, WOULD BE PURSUANT TO 3553(A), SO I TELL
7 YOU MY THOUGHTS ON THE CALCULATION JUST SO YOU KNOW, MR. KIRBY.
8 GO AHEAD.

9 MR. KIRBY: I UNDERSTAND, YOUR HONOR. THANK YOU VERY
10 MUCH.

11 I APPRECIATE THE COURT'S POSITION ON OBSTRUCTION, AS
12 WELL AS ACCEPTANCE.

13 I WOULD URGE THE COURT TO RECONSIDER REGARDING ROLE.
14 THAT IS AN 8-LEVEL SWING IN THIS CASE.

15 THE COURT: IT IS.

16 MR. KIRBY: SORT OF THE STANDARD THAT YOU SEE ALL THE
17 TIME IN THESE TYPES OF CASES ARE PRESENT. MS. KOWNACKI HAD NO
18 OWNERSHIP INTEREST IN THE DRUGS. SHE WAS NOT INVOLVED IN ANY
19 NEGOTIATIONS FOR THE SALE. SHE BASICALLY WAS TOLD, "GO HERE
20 AND DELIVER THE DRUGS AND COME RIGHT BACK."

21 THE COURT: THIS WAS OVER A NUMBER OF TIMES. THERE WAS
22 A SIGNIFICANT FINANCIAL INTEREST THAT SHE HAD IN WHAT THEY WERE
23 PAYING HER, SO WHEN I LOOK AT HER INVOLVEMENT, THIS WASN'T A
24 ONE-TIME VENTURE. THIS WASN'T A TWO-TIME VENTURE. IT WASN'T A
25 THREE-TIME VENTURE, AND THIS WASN'T A COUPLE THOUSAND DOLLARS.

1 YOU DON'T SEE FROM PROBATION OFTEN A RECOMMENDATION FOR A FINE
2 LIKE THAT.

3 MR. KIRBY: WELL, YOUR HONOR, THAT ORIGINAL
4 RECOMMENDATION WAS PREDICATED ON THE FACT THAT SHE HAD ACTUALLY
5 RETAINED THAT MONEY, WHICH SHE DID NOT. SHE PAID OFF DEBTS
6 WITH THAT MONEY TO TRY TO GET HERSELF OUT OF HOCK.

7 THE FACT I WOULD LIKE YOUR HONOR TO FOCUS ON FOR A
8 MOMENT IS MS. KOWNACKI OBVIOUSLY HAS A LONGSTANDING DRUG
9 PROBLEM THAT SHE'S FOUGHT OFF INTERMITTENTLY, BUT NOT
10 SUCCESSFULLY.

11 IN THIS PARTICULAR CASE, SHE WAS DOWN IN ROSARITO.
12 THEY ESSENTIALLY KEPT HER DRUGGED ON HEROIN AND ABUSED HER
13 SEXUALLY. WHEN THEY NEEDED HER TO CROSS, THEY WOULD PUMP HER
14 UP WITH METHAMPHETAMINE SO SHE WOULD BE AWAKE ENOUGH TO GET
15 ACROSS THE BORDER, AND THEN SHE WOULD COME BACK AND COME BACK
16 TO THE HEROIN. AND THIS WAS SORT OF A CYCLE THAT THEY WERE
17 USING HER IN THIS MANNER, BOTH FOR DRUG CROSSINGS AND FOR OTHER
18 REALLY HORRIBLE THINGS, DURING THE COURSE OF HER TIME DOWN
19 THERE.

20 THE COURT: I MEAN, I DEFINITELY WILL STRONGLY
21 RECOMMEND RDAP, WHATEVER SENTENCE THE COURT IMPOSES, BECAUSE I
22 THINK SHE WOULD BENEFIT FROM THAT.

23 MR. KIRBY: SHE WOULD, YOUR HONOR, AND THAT PARTIALLY
24 GOES TO OUR PLACEMENT RECOMMENDATION WE'RE ASKING FOR. MS.
25 KOWNACKI DID ENTER CRASH. SHE WAS SUCCESSFUL ALMOST UP TO THE

1 END, THEN WAS ALLOWED TO SEEK EMPLOYMENT, SOUGHT EMPLOYMENT
2 WITH SOME OF THE FOLKS THAT SHE HAD HUNG OUT WITH PREVIOUSLY,
3 AND THAT'S WHAT HAPPENED TO HER AS FAR AS FAILING CRASH. SHE
4 HUNG OUT WITH THOSE PEOPLE. THEY GAVE HER DRUGS. SHE LEFT
5 CRASH, AND THAT WAS WHY SHE PANICKED AND LEFT IN THE FIRST
6 PLACE.

7 YOUR HONOR, I KNOW THE NINTH CIRCUIT CASE LAW ABOUT
8 MERE COURIERS IS NOT GOOD. I THINK THE FACT THAT SHE WAS FED
9 DRUGS DURING THE COURSE OF THIS -- OF HER PARTICIPATION IS
10 SOMETHING THAT I THINK MAKES HER LESS CULPABLE THAN THE AVERAGE
11 COURIER. I UNDERSTAND THAT SHE'S DONE THIS -- SHE DID THIS
12 MANY TIMES, BUT I ASK YOUR HONOR TO CONSIDER WHETHER AN 8-LEVEL
13 SWING IN THE GUIDELINES IS REALLY APPROPRIATE IN THIS CASE WITH
14 A YOUNG WOMAN LIKE HER.

15 MY POSITION WOULD BE THAT YOUR HONOR SHOULD START WITH
16 57 MONTHS, NOT 151 MONTHS. I THINK THAT'S A COMPLETELY
17 UNREASONABLE SENTENCE. I THINK IT'S UNREASONABLE GIVEN WHAT'S
18 GOING ON IN CONGRESS RIGHT NOW AND THE MOVES AFOOT TO ADDRESS
19 THE SENTENCES IMPOSED FOR NONVIOLENT DRUG OFFENDERS. MS.
20 KOWNACKI WOULD NOT BENEFIT FROM A LENGTHY PERIOD OF
21 INCARCERATION. SHE'S GOT A YOUNG CHILD. SHE DOES HAVE A
22 LONGSTANDING DRUG PROBLEM THAT NEEDS TO BE ADDRESSED, BUT
23 PUTTING HER IN JAIL FOR 72 MONTHS IS TAKING AWAY A BIG CHUNK OF
24 HER LIFE. IT'S TAKING AWAY A BIG CHUNK OF THE TIME SHE WOULD
25 SPEND WITH HER CHILDREN. I THINK A MORE REASONABLE SENTENCE OF

1 36 MONTHS WOULD ADDRESS THE ISSUES THAT THE COURT'S CONCERNED
2 WITH, AND THAT IS THE DANGEROUS DRUGS BEING BROUGHT INTO THIS
3 COUNTRY.

4 MS. KOWNACKI ALSO JUST BARELY DID NOT COMPLY WITH THE
5 SAFETY VALVE, BASED UPON A -- BASICALLY ONE DRUG CONVICTION,
6 AND THAT KICKED HER OUT OF THOSE 2 POINTS AS WELL.

7 SO GIVEN ROLE AND GIVEN THE SAFETY VALVE, IF SHE WERE
8 ELIGIBLE, SHE WOULD BE LOOKING AT A 46-MONTH GUIDELINE
9 SENTENCE, WHICH WOULD BE AT LEAST A REASONABLE SENTENCE. I
10 THINK 72 MONTHS DOES NOT SERVE ANYONE.

11 ASIDE FROM THE FACT THAT SHE IS A BRIGHT YOUNG WOMAN,
12 SHE HAS A PROMISING FUTURE. I THINK 72 MONTHS IS GOING TO
13 INSTITUTIONALIZE HER AND SHE'S GOING TO COME OUT BASICALLY AS A
14 DRUG FELON AND MAY NOT MOVE PAST THAT.

15 I WOULD NOTE THAT VIRTUALLY THIS ENTIRE COURTROOM ARE
16 FOLKS HERE IN SUPPORT OF HER. MOST IMPORTANTLY, OBVIOUSLY
17 MICHELLE AND JOSEPH KOWNACKI, WHO HAVE CUSTODY OF HER DAUGHTER,
18 AND HAVE REMAINED SUPPORTIVE OF HER THROUGHOUT. THERE ARE MANY
19 PEOPLE FROM THE SUPERIOR COURT THAT YOUR HONOR MAY RECOGNIZE.

20 THE COURT: I SEE SOME FAMILIAR FACES.

21 MR. KIRBY: AND MANY PEOPLE FROM THE PUBLIC DEFENDER'S
22 OFFICE AS WELL. SO I THINK YOUR HONOR PROBABLY KNOWS THE
23 MAJORITY OF THE PEOPLE IN HERE, KNOWS THAT THEY'RE GOOD PEOPLE,
24 AND THEY'RE STANDING BEHIND HER.

25 THE COURT: YOU KNOW, THAT'S NOT THE ISSUE, AND THIS IS

1 A TROUBLESOME CASE BECAUSE OF THAT, AND I'VE READ EVERY PAGE OF
2 THIS FILE PROBABLY MORE THAN ONCE, BUT IT CUTS BOTH WAYS, MR.
3 KIRBY. I MEAN, THERE ARE SO MANY OTHER PLACES TO TURN FOR YOUR
4 CLIENT THAN THE WAY SHE TURNED BECAUSE SHE HAS A GOOD FAMILY.
5 SHE HAS A GOOD SUPPORT SYSTEM. MANY OF THE INDIVIDUALS WHO
6 COME BEFORE THE COURT DON'T HAVE ANY PLACE TO TURN, AND SO SHE
7 HAD A SUPPORTIVE FAMILY. SHE HAD A NETWORK THAT COULD HAVE
8 HELPED ON SO MANY LEVELS.

9 NONETHELESS, I DON'T DISAGREE WITH YOU THAT SOME
10 DISCRETION IS APPROPRIATELY EXERCISED HERE, SIR, WHATEVER THE
11 CALCULATION IS. IF I FOLLOW THE GUIDELINE CALCULATION THAT THE
12 GOVERNMENT HAS, IT WOULD HAVE TO COME DOWN A HUGE AMOUNT FROM
13 THAT, BELOW WHAT THE GOVERNMENT'S ASKING CERTAINLY, IN THE
14 COURT'S VIEW.

15 AND LET'S BE CLEAR HERE, THIS CASE ORIGINALLY, BEFORE
16 SHE ABSCONDED, WAS AT A DIFFERENT POINT, AND TO SOME EXTENT
17 SHE'S VERY FORTUNATE THAT THERE WEREN'T ADDITIONAL CHARGES
18 BROUGHT OR OTHER THINGS THAT COULD HAVE BEEN BROUGHT. SO I
19 UNDERSTAND THAT, AND I APPRECIATE EVERYBODY COMING TODAY.

20 MR. KIRBY: YOUR HONOR, AS FAR AS THE ABSCONDING GOES,
21 I WAS -- I MEAN, SHE ACTUALLY ABSCONDED FROM ME, AND I CAN TELL
22 YOUR HONOR THAT IT WAS A PANICKED REACTION. I SAW THE PANIC IN
23 HER EYES BEFORE SHE LEFT, AND IT WAS A BAD DECISION, AND SHE
24 KNOWS IT WAS A BAD DECISION, AND SHE ACCEPTS RESPONSIBILITY NOT
25 JUST FOR THE DRUGS BUT ALSO FOR THAT.

1 I JUST WANTED YOUR HONOR TO JUST UNDERSTAND, I KNOW
2 THERE ARE ALL THESE PEOPLE SUPPORTING HER. I'VE HAD A LOT OF
3 CLIENTS/COURIERS WITH DRUG PROBLEMS. I HAVE NEVER SEEN
4 ANYTHING LIKE THIS IN MY LIFE. THE COMBINATION OF THE DRUGS
5 AND ABUSE BY MEN JUST SPANS HER ENTIRE ADULthood. I WOULD ASK
6 YOUR HONOR TO JUST IMPOSE A SENTENCE THAT'S NOT GOING TO MAKE
7 HER -- MAKE THIS CASE HER DEFINING CHARACTERISTIC IN HER LIFE.
8 THIS IS SOMETHING SHE CAN GET THROUGH. THIS IS SOMETHING IF
9 SHE CAN GET THE DRUGS OUT OF HER HEAD, THEN SHE CAN HAVE A
10 PROMISING LIFE AHEAD OF HER.

11 I WOULD NOTE THAT MS. KOWNACKI HAS ACTUALLY DONE A LOT
12 OF RESEARCH, HAS ASKED ME TO ASK FOR A RECOMMENDATION TO
13 WASECA. SHE WANTS TO GET AWAY FROM SOUTHERN CALIFORNIA.

14 THE COURT: WHERE IS THAT?

15 MR. KIRBY: IT'S IN MINNESOTA, I BELIEVE. I HAVE A
16 COUPLE OF CLIENTS THAT ARE THERE RIGHT NOW. THEY HAVE A DRUG
17 PROGRAM. THEY ALSO HAVE SEVERAL OTHER PROGRAMS THAT MS.
18 KOWNACKI COULD UTILIZE TO COME OUT WITH SOME SORT OF CAREER
19 OPTIONS, AND SHE'S -- BUT MOST SPECIFICALLY SHE WANTED TO BE
20 AWAY FROM SOUTHERN CALIFORNIA, AWAY FROM THE PEOPLE WHO MIGHT
21 LET HER DROP BACK INTO THAT DRUG SCENE. HER PARENTS HAVE A
22 PLACE IN PENNSYLVANIA. THEY CAN RELOCATE THERE TO BE NEAR HER,
23 AND SO THAT'S HER RECOMMENDATION.

24 BUT THE BOTTOM LINE IS, YOUR HONOR, I JUST ASK YOUR
25 HONOR TO TAKE INTO ACCOUNT, WHETHER IT'S VIA ROLE OR VIA 3553,

1 THAT THIS IS A PROMISING YOUNG WOMAN WHO SHOULDN'T BECOME --
2 SHOULDN'T HAVE THIS INCIDENT DEFINE HER WHOLE LIFE.

3 THE COURT: THANK YOU, MR. KIRBY. I APPRECIATE THE
4 COMMENTS.

5 MS. KOWNACKI, IS THERE ANYTHING THAT YOU WOULD LIKE TO
6 SAY THIS MORNING, MA'AM, BEFORE SENTENCING? I DID READ YOUR
7 LETTER, AND I APPRECIATED THAT, BUT YOU CERTAINLY HAVE AN
8 OPPORTUNITY NOW TO SAY ANYTHING ELSE YOU WOULD LIKE TO, MA'AM.

9 THE DEFENDANT: FIRST, I WOULD LIKE TO SAY GOOD
10 MORNING, YOUR HONOR. I WOULD LIKE TO SAY MY APPRECIATION TO MY
11 FAMILY AND EXTENDED FAMILY AND FOR THE COST AND MAKING TIME TO
12 BE HERE. THE ABUNDANT SUPPORT HAS HELPED TO RAISE MY SPIRITS,
13 AND MATURE MY MOTIVATION, AND TRANSFORM A CODEPENDENT ADDICT
14 INTO A HEALTHY DAUGHTER AND MOTHER.

15 I ALSO NEED TO APOLOGIZE FOR BEHAVING AND ACTING SO
16 CARELESSLY AND SELFISHLY IN MY LIFE. I TRADED IN MY TWO MOST
17 POWERFUL QUALITIES, AMBITION AND PASSION, FOR AN ILL AND TOXIC
18 LIFESTYLE.

19 MISERY BROUGHT ALONG MISERABLE COMPANY, AND I'M ASHAMED
20 OF THE EVIL POSSIBILITY THAT I HAD SPREAD MY SAME DISEASE OF
21 ADDICTION ONTO OTHERS AND ASSISTED IN THEIR DOWNWARD SPIRAL. I
22 REMEMBER THE FIRST TIME I DID HEROIN. WHEN MY EYES CAUGHT THE
23 MIRROR, A STRANGER REFLECTED BACK. THE EMPTY MIRRORED EYES HAD
24 LOST ALL SPARKLE OF LIFE. I WOULD NEVER WISH THIS UPON ANYONE.

25 I'M APPRECIATIVE THAT THIS EXPERIENCE HAS SAVED ME FROM

1 THAT PERSON. I REFLECT A LOT THROUGHOUT MY DAY AND FIND IT
2 MOST REWARDING HELPING OTHERS. ACTIVE ADDICTION IS VERY
3 COMPLEX AND DRAINING. NOW BEING CLEAN, MY POSITIVE ENERGY CAN
4 TRANSFER INTO MAKING FRIENDS, THOUGHTFUL CONVERSATIONS,
5 PHYSICAL WELLNESS, AND SPIRITUAL GROWTH. I KNOW I'M A GOOD
6 PERSON WHO WAS RAISED IN AN AMAZING FAMILY WITH PRACTICED
7 BELIEF SYSTEM. I AM SO GRATEFUL THAT THIS EXPERIENCE HAS GIVEN
8 MY FAMILY A HUGE OPPORTUNITY FOR EVERYONE TO LEARN MORE ABOUT
9 THE OTHER. THIS IS EXACTLY WHAT I NEEDED, AND IN REALITY THE
10 GOVERNMENT HAS PLAYED A HUGE ROLE IN SAVING MY LIFE. WORKING
11 ON MY ESTEEM DAILY, I'M SO GRATEFUL TO NO LONGER NEED OUTSIDE
12 VALIDATION TO FEEL GOOD ABOUT MYSELF.

13 I JUST WANTED TO SHARE A QUICK STORY. I WAS LAYING IN
14 MY BUNK ONE NIGHT AND I OPENED MY EYES AND I SAW MY HAND, AND I
15 INSTANTLY REMEMBERED MY MOM'S HAND. WHEN I WENT TO CHURCH WITH
16 HER WHEN I WAS LITTLE, I USED TO SIT BY HER AND I USED TO, YOU
17 KNOW, MASSAGE HER HAND, PLAY WITH HER JEWELRY, YOU KNOW, AND
18 THAT'S WHAT I WANT FOR MY DAUGHTER. I WANT HER TO BE ABLE TO
19 KNOW MY HAND AND KNOW THAT IT'S GOING TO BE THERE WITH HER.
20 I'M VERY BLESSED TO HAVE A BEAUTIFUL DAUGHTER TRINITTI. HER
21 SENSE OF HUMOR IS JUST BEYOND HER AGE. YOU KNOW, I'VE LET HER
22 DOWN. I HAVEN'T BEEN THE MOTHER THAT I KNOW I CAN BE, AND
23 SHE'S INNOCENT IN ALL OF THIS.

24 I REMEMBER AT CRASH WHEN SHE CAME TO VISIT ME, SHE --
25 RIGHT BEFORE SHE LEFT SHE GOT ME AND SHE SAID THAT SHE HAD LEFT

1 SOMETHING BEHIND, AND IN ACTUALITY WHEN I WENT IT WAS JUST SO
2 THAT SHE COULD SPEND SOME TIME JUST ME AND HER. THERE WERE
3 MULTIPLE TIMES TO THE BATHROOM WHERE SHE JUST DANCED DOWN THE
4 HALLWAY, YOU KNOW, JUST TO BE THERE WITH ME INDEPENDENTLY. MY
5 DAD ALWAYS TELLS ME HE'LL LOOK AT HER AND HE KNOWS WHEN SHE'S
6 THINKING OF ME, AND THAT TOUCHES MY HEART BECAUSE SHE HAS THE
7 UNCONDITIONAL LOVE FOR ME. THANK YOU.

8 THE COURT: I APPRECIATE YOUR COMMENTS, MA'AM. THANK
9 YOU.

10 MR. SAUSEDO.

11 MR. SAUSEDO: AS THE COURT STATED, I DO THINK THIS IS A
12 TROUBLESOME CASE. I PREPARED FOR THIS SENTENCING OVER AND
13 OVER. THERE WAS A LOT OF MATERIALS. THERE WAS A LOT OF
14 ACTIVITY THAT HAS OCCURRED POST-ARREST.

15 I THINK AS MOST STORIES START, IT'S GOOD TO START AT
16 THE BEGINNING. HERE, OBVIOUSLY, MS. KOWNACKI WAS IMPORTING A
17 SIGNIFICANT QUANTITY OF NARCOTICS, EVEN IN A DISTRICT AS JADED
18 AS OURS, WHERE WE'RE ACCUSTOMED TO SEEING ASTRONOMICAL
19 QUANTITIES. HERE WE THOUGHT IT WAS ALL METHAMPHETAMINE AND
20 HEROIN, IT TURNED OUT THAT IT WAS 4.4 KILOGRAMS OF
21 METHAMPHETAMINE, ALONG WITH 10 KILOGRAMS OF FENTANYL.

22 AT THE TIME I DIDN'T KNOW MUCH ABOUT FENTANYL. I'VE
23 SUBSEQUENTLY VISITED A LAB, AND THE SERIOUSNESS OF THIS DRUG IS
24 UNDER-APPRECIATED, AS SOON AS THERE'S A FINDING, PRESUMPTIVE
25 TEST OF FENTANYL IN THE LAB, THEY CLOSE THE LAB. THEY PUT

1 HAZMAT SUITS ON AND TEST IT FURTHER. THEY DON'T DO THAT WITH
2 METHAMPHETAMINE. THEY DON'T DO THAT WITH OTHER DRUGS. THAT'S
3 HOW SERIOUS THIS IS, AND THIS IS 10 KILOGRAMS OF THAT.

4 CLEARLY IT'S WHAT'S DRIVING THE GUIDELINES. WE START
5 AT A BASE OFFENSE LEVEL 38, BASED ON THE TYPE AND QUANTITY IN
6 THIS CASE.

7 ADDRESSING THE ROLE DEPARTURE, THE UNITED STATES SHARES
8 STRONGLY THE SAME CONCERNS AND APPRECIATIONS THE COURT DID.
9 IT'S A DOUBLE-EDGED SWORD. BASED ON HER OWN STATEMENTS, WE
10 KNOW THERE WAS SOME PRIOR CONDUCT HERE, SO WE BEGIN WITH THE
11 FACT SHE'S A COURIER. WE DON'T ATTRIBUTE ANY ROLE WITHIN THE
12 DRUG TRAFFICKING ORGANIZATION OTHER THAN THAT, OR GREATER THAN
13 THAT, BUT AGAIN, EVEN THAT THE NINTH CIRCUIT HAS REPEATEDLY
14 HELD DOES NOT AUTOMATICALLY ENTITLE ONE TO A MINOR ROLE
15 ADJUSTMENT.

16 FRANKLY SPEAKING, MS. KOWNACKI MUST HAVE BEEN VERY GOOD
17 AT WHAT SHE DID, BASED ON THE NUMBER OF CROSSINGS SUCCESSFULLY,
18 AND WE KNOW BECAUSE OF HER CANDID STATEMENTS POST-ARREST. THAT
19 CANNOT BE IGNORED.

20 BUT AS THE NINTH CIRCUIT SAID IN *HURTADO*, ANY ONE OF
21 THESE FACTS, THE FACT THAT SHE STANDS -- I KNOW THE STATEMENT
22 WAS MADE THAT SHE DOESN'T HAVE A PROPRIETARY INTEREST IN THE
23 DRUGS, AND WE OFTEN HEAR THAT. THAT'S NOT THE STANDARD. SHE
24 STOOD TO MAKE SIGNIFICANT MONEY, AS THE COURT NOTED, AND SHE
25 HAD MADE SIGNIFICANT CASH. IN FACT, SHE HAD DONE IT BOTH

1 THROUGH PEDESTRIAN AND IN A VEHICLE.

2 I'LL ADDRESS IN A MINUTE THE ISSUES WITH REGARDS TO THE
3 DRUGS THAT HAVE ALREADY ENTERED THE UNITED STATES, BUT COMBINE
4 THE FACT THAT SHE'S BEING PAID, SHE WAS THE DRIVER, SHE -- YES,
5 MAYBE WORKING AT THE BEHEST OF OTHERS, BUT THE NINTH CIRCUIT
6 SAID THAT IS ONLY A FACTOR. COMBINE THAT WITH THE MONEY SHE
7 STOOD TO MAKE HERE, WE DON'T FEEL ROLE WAS APPROPRIATE.

8 AGAIN, THE FACT THAT EVEN UNDER THE NEW GUIDELINES THAT
9 WERE ENACTED AND AMENDED AS OF LAST WEEK, THE UNITED STATES
10 TAKES THE POSITION THAT THOSE GUIDELINES NOT ONLY ARE
11 CONSISTENT WITH *HURTADO* BUT THEY SUPPORT *HURTADO*. IT LOOKS AT
12 THE TOTALITY OF CIRCUMSTANCES, WEIGHING A LOT OF FACTORS TO
13 THEN DETERMINE WHETHER OR NOT ONE CAN PROVE THEY'RE
14 SIGNIFICANTLY OR SUBSTANTIALLY LESS CULPABLE THAN THE AVERAGE
15 PARTICIPANT.

16 HERE WE HAVE PEOPLE THAT ARE THE KINGPINS AT THE TOP.
17 WE HAVE PEOPLE THAT ARE MERELY LOADING THE DRUGS, AND ALTHOUGH
18 SHE MAY BE A COG IN A WHEEL, AS THE NINTH CIRCUIT SAID, AND
19 JUDGE SILVERMAN WRITING, SHE IS AN ESSENTIAL COG.

20 AS WE MOVE DOWN, WE DO AND STAND BY OUR RECOMMENDATION
21 FOR ACCEPTANCE, WHICH IS ALSO SOMETHING THAT I THINK WAS CALLED
22 INTO QUESTION BASED ON HER ABSCOND, BUT WE STAND BY THAT, AND
23 FAST-TRACK, SO WE'RE AT A RANGE AT 151 TO 188 MONTHS.

24 IT CAN'T BE SAID ENOUGH THAT THIS GUIDELINE RANGE IS
25 THAT HIGH BECAUSE OF THE SERIOUSNESS OF THE OFFENSE. THIS IS A

1 SERIOUS OFFENSE. WE HAVE A MAJOR DRUG PROBLEM IN THIS COUNTRY,
2 AND I KNOW THAT WE OFTEN HEAR ARGUMENTS ABOUT WHAT'S GOING ON
3 IN D.C., CONGRESSIONAL LEGISLATION AND SO FORTH. I
4 RESPECTFULLY DISAGREE WITH THE NOTION THAT WE HAVE A MAJOR DRUG
5 PROBLEM SO LET'S LIGHTEN THE SENTENCES. THAT'S GOING TO
6 SOMEHOW SOLVE THIS DRUG PROBLEM.

7 I UNDERSTAND THAT 72 MONTHS IS A SIGNIFICANT SENTENCE
8 FOR SOMEBODY WITH A BRIGHT FUTURE, WHO, AFTER HAVING AN
9 OPPORTUNITY TO MEET MS. KOWNACKI FOR AN EXTENDED PERIOD OF
10 TIME -- I LIKE TO THINK THAT I HAVE A GOOD SENSE OF PEOPLE.
11 SHE HAS A GOOD HEART, AND SHE HAS A PROMISING FUTURE. IT'S
12 WITHOUT DISPUTE. I THINK EVERY CASE PULLS AT THE HEART, AND
13 ESPECIALLY THIS ONE. THIS IS A TROUBLING CASE.

14 CLEARLY THE REASON THE PENALTIES ARE SO HIGH IN THIS
15 COUNTRY IS PEOPLE LIKE MS. KOWNACKI. ONCE YOU GET ADDICTED TO
16 THIS POISON IT DESTROYS. IT REMOVES LIFE. YOU DON'T EVER SEE
17 AN OLD METH ADDICT BECAUSE IT KILLS THEM. THEY DIE. WHETHER
18 IT'S OVERDOSE OR WHATEVER COMES WITH THE ADDICTION, THEY DIE,
19 AND THAT'S WHY THE PENALTIES ARE SO SEVERE.

20 WHICH BRINGS ME BACK TO THE POINT THAT 72 MONTHS IS A
21 SIGNIFICANT SENTENCE. IT'S HALF OF THE GUIDELINE RANGE THOUGH.
22 SHE RECEIVES A BENEFIT OF I'M CUTTING THE GUIDELINE RANGE IN
23 HALF TO FASHION A SENTENCE. I MEAN, I THINK I HAD ENVISIONED A
24 SENTENCE SOMETHING ALONG THESE LINES PRIOR TO THE ACTIVITY WHEN
25 SHE ABSCONDED. IT CALLED INTO QUESTION MY RECOMMENDATION A

1 LITTLE BIT, BUT I STAND BY IT. I STILL THINK IT'S THE
2 APPROPRIATE SENTENCE. IT'S A SIGNIFICANT SENTENCE. I DON'T
3 DISPUTE THAT.

4 CLEARLY THERE'S A LONGSTANDING ADDICTION PROBLEM HERE
5 THAT NEEDS TO BE ADDRESSED. THAT ONLY RESTS WITH MS. KOWNACKI.
6 SHE MUST MAKE THAT DECISION. SHE HAS THE AMAZING SUPPORT OF A
7 GROUP OF INDIVIDUALS THAT I HAVE YET TO SEE IN ANY OF MY CASES,
8 SO SHE HAS THAT THERE. I WOULD STRONGLY URGE HER TO TAKE
9 ADVANTAGE OF THAT.

10 IT WAS SOMEWHAT FRUSTRATING TO HEAR ONE DAY FROM I
11 BELIEVE OFFICER O'GORMAN, AND THEN MR. KIRBY, THAT SHE WAS
12 ACTING AS A MENTOR AT CRASH, AND THEN A FEW DAYS LATER SHE
13 BRINGS METHAMPHETAMINE INTO CRASH. IT TOOK US BY SURPRISE.

14 ANOTHER REASON FOR THE REQUESTED VARIANCE IS THERE MAY
15 BE A PROCEDURAL -- FOR MS. KOWNACKI'S BENEFIT, I HOPE THERE IS,
16 MAY BE A PROCEDURAL RULE 35 MOTION FILED AT SOME POINT. UP TO
17 DATE BASED ON HER VERY CANDID STATEMENTS, WE'VE BEEN ATTEMPTING
18 TO FOLLOW UP ON THOSE, AND IT OBVIOUSLY HASN'T LED TO ANYTHING
19 TO DATE, AND THAT'S WHY THERE'S NO MOTION BEFORE THE COURT, BUT
20 THERE WAS A LENGTHY, LENGTHY DEBRIEF IN WHICH MS. KOWNACKI
21 QUICKLY ACCEPTED RESPONSIBILITY FOR HER ACTIONS AND WENT
22 FURTHER, AND THAT'S ANOTHER REASON WHY THE UNITED STATES FEELS
23 THAT SOME COMBINATION FOR THAT. I DON'T WANT TO LABEL IT AS
24 SUPER ACCEPTANCE, BUT THERE -- IT DID GO FURTHER THAN THE
25 STANDARD MEASURED DEBRIEF.

1 I WANT TO END WITH JUST A STATEMENT OF 72 MONTHS BEING
2 A BIG CHUNK OF HER LIFE, A BIG CHUNK OF HER LIFE BEING AWAY
3 FROM HER FAMILY. IF WE ASSUME SIMILAR QUANTITIES IN THESE
4 PRIOR RUNS, THE QUANTITIES OF DRUGS THAT HIT THE STREET IN THIS
5 COUNTRY HAS AFFECTED TENS OF THOUSANDS OF PEOPLE. IF ONE HIT
6 OF METHAMPHETAMINE IS HALF OF A GRAM, AND ON THIS LOAD WE HAVE
7 5 KILOGRAMS, THAT'S 50,000 HITS. SO THE AMOUNT OF DRUGS -- AND
8 SO HOW MANY LIVES HAVE BEEN AFFECTED DIRECTLY BY MS. KOWNACKI
9 IS CONCERNING, AND THAT IS PRIMARILY WHERE THE UNITED STATES
10 STANDS ON THE 72 MONTHS AS IT CAME DOWN FROM THE GUIDELINE
11 RANGE, AND AGAIN WE DON'T BELIEVE 151 IS APPROPRIATE. WE DO
12 THINK THAT'S TOO HIGH. THAT IS TOO HIGH. FRANKLY, THE
13 PARSIMONY PRINCIPLE WOULD BE VIOLATED AT THAT POINT.

14 THERE BECOMES A POINT WHERE THE BALANCING, AS THE COURT
15 KNOWS, WHERE ACCOUNTING FOR THE NATURE AND CIRCUMSTANCES OF THE
16 OFFENSE, THE PRIOR CONDUCT, THE POSITIVE EQUITIES IN MS.
17 KOWNACKI'S FAVOR, THERE'S A TIPPING POINT. AND TO THINK THAT
18 THE TENS OF THOUSANDS OF LIVES THAT HAVE BEEN AFFECTED BY DRUGS
19 THAT WERE BROUGHT IN BY MS. KOWNACKI IS WHERE THE UNITED STATES
20 FEELS THAT THERE NEEDS TO BE JUST PUNISHMENT. THERE NEEDS TO
21 BE THAT SENTENCE THAT WOULD PROMOTE RESPECT FOR THE LAW, TO
22 DETER OTHERS FROM DOING THIS CONDUCT, AND TO PROTECT THE
23 PUBLIC, AND TO AVOID UNWANTED SENTENCING DISPARITIES.

24 HAD THIS BEEN A ONE-TIME EVENT, WITH A SMALLER
25 QUANTITY, YES, MAYBE FOUR TO SIX MONTHS THAT I THINK MAYBE OR

1 THEREABOUTS IS APPROPRIATE, BUT, AGAIN, THE UNITED STATES DOES
2 NOT MAKE THE -- RECOMMEND THE SENTENCE LIGHTLY. THERE ARE A
3 LOT OF POSITIVE THINGS FOR MS. KOWNACKI. I DON'T WANT IT TO
4 COME OFF AS THE UNITED STATES IS IGNORING THAT. I APPRECIATE
5 THAT, AND I DO THINK THAT THERE IS A LOT OF HOPE FOR MS.
6 KOWNACKI, BUT THERE NEEDS TO BE JUST PUNISHMENT FOR THE CRIME
7 THAT WAS COMMITTED, AND THE UNITED STATES STANDS BY THAT THE
8 3553 FACTORS SUPPORT A SENTENCE HALF OF WHAT THE GUIDELINES DO
9 OF 72 MONTHS, AND WE WOULD SUBMIT ON THAT.

10 THE COURT: THANK YOU, MR. SAUSED0.

11 MR. ENGLISH.

12 THE PROBATION OFFICER: MARVIN ENGLISH, YOUR HONOR. WE
13 STAND BY OUR RECOMMENDATION. I WOULD NOTE JUST FOR THE COURT'S
14 CONVENIENCE THAT THE RDAP PROGRAM IS LOCATED ALSO AT THIS FCI
15 WASECA, W-A-S-E-C-A, AND IT IS IN MINNESOTA. SO WE WOULD
16 RECOMMEND RDAP, YOUR HONOR.

17 I NOTICED THAT THERE WAS NO MENTAL HEALTH CONDITION. I
18 WOULD RECOMMEND THAT IN ADDITION TO ALL THE ONES THAT ARE
19 STATED IN THE REPORT.

20 THE COURT: VERY WELL.

21 THE PROBATION OFFICER: THANK YOU, YOUR HONOR.

22 THE COURT: THANK YOU.

23 ANYTHING ELSE, MR. KIRBY, OR IS THE MATTER SUBMITTED?

24 MR. KIRBY: YOUR HONOR, THE MATTER IS SUBMITTED. I
25 JUST WOULD NOTE THAT IT'S DIFFICULT THAT MS. KOWNACKI'S CANDOR

1 WITH PROBATION AND CANDOR WITH THE GOVERNMENT, AS FAR AS HOW
2 OFTEN SHE DID THIS, IS BEING USED AGAINST HER. I THINK THAT'S
3 A LITTLE BIT TROUBLING. SHE COULD HAVE SIMPLY SAID, "YEAH,
4 THIS IS THE FIRST TIME." THEY WOULD HAVE NO EVIDENCE TO THE
5 CONTRARY, BUT SHE WAS CANDID WITH PROBATION. SHE WAS CANDID
6 WITH THE GOVERNMENT. I WOULD ASK THAT MR. SAUSEDO'S REMARKS AS
7 TO THE NUMBER OF TRIPS, AND THAT AS AN AGGRAVATING FACTOR, BE
8 TEMPERED SOMEWHAT BY THE FACT THAT SHE DIDN'T NEED TO TELL
9 ANYBODY ABOUT THAT.

10 THE COURT: VERY WELL. I APPRECIATE THAT. I
11 UNDERSTAND YOUR CONCERN ABOUT IT.

12 WELL, WE'VE ALL ACKNOWLEDGED THAT THIS IS A DIFFICULT
13 AND TROUBLING CASE ON SO MANY LEVELS, MS. KOWNACKI. TO SAY
14 THAT THIS IS AN UNFORTUNATE CIRCUMSTANCE IS A GROSS
15 UNDERSTATEMENT. I HOPE FOR YOUR SAKE THAT WHAT YOU'RE GOING
16 THROUGH NOW DOES NOT DEFINE YOU, BUT THAT'S UP TO YOU, MA'AM.
17 THAT'S NOT UP TO ME. IT'S NOT UP TO MR. KIRBY. IT'S NOT UP TO
18 ALL THE WONDERFUL PEOPLE THAT CAME TO SUPPORT YOU. THAT'S
19 TOTALLY UP TO YOU.

20 I WOULD SUGGEST TO YOU YOU DESERVE A BETTER LIFE THAN
21 THE ONE YOU'VE BEEN HAVING. I WOULD SUGGEST TO YOU THAT YOUR
22 DAUGHTER DESERVES TO HAVE YOU IN HER LIFE IN A MEANINGFUL WAY,
23 BUT AGAIN, THAT'S GOING TO BE WITHIN YOUR CONTROL, NOT MINE.

24 SO MANY OF THE PEOPLE THAT ARE HERE TO SUPPORT YOU
25 CERTAINLY KNOW AN AWFUL LOT ABOUT THE CRIMINAL JUSTICE SYSTEM,

1 AND THEY KNOW THAT MY OBLIGATION IS TO COME UP WITH A SENTENCE
2 THAT IS SUFFICIENT BUT NOT GREATER THAN WHAT'S NECESSARY,
3 TAKING INTO ACCOUNT THE TOTALITY OF THE CIRCUMSTANCES THAT YOU
4 BRING BEFORE THE COURT.

5 THEY ALSO KNOW THAT I HAVE TO PREVENT SENTENCING
6 DISPARITIES. I CAN'T TREAT PEOPLE THAT ARE SIMILARLY SITUATED,
7 -- WE KNOW THAT EVERYBODY IS UNIQUE BECAUSE MANY OF THE FOLKS
8 OUT HERE HAVE REPRESENTED PEOPLE, AS MR. KIRBY REPRESENTS YOU,
9 NOBODY'S IDENTICALLY SITUATED, BUT CIRCUMSTANCES CAN BE
10 SIMILAR, AND I HAVE TO AVOID SENTENCING DISPARITIES, THAT IS,
11 TREATING PEOPLE WHO ARE SIMILAR IN VERY DIFFERENT WAYS, AND SO
12 THAT'S ONE OF THE COURT'S OBLIGATIONS TODAY ALSO, MA'AM.

13 I HAVE TO PROMOTE RESPECT FOR THE LAW, AND I HAVE TO
14 DETER PEOPLE FROM COMMITTING THESE CRIMES. IT'S WITH REGARD TO
15 THE LATTER TWO POINTS THAT THE GOVERNMENT'S POINT HAS TO BE --
16 IS WELL TAKEN, THAT WHAT YOU DID HERE, MA'AM, THE SUBSTANCES
17 THAT YOU BROUGHT IN AND THE QUANTITIES, WERE -- TO SAY THAT
18 THEY'RE HORRIFIC SUBSTANCES AND CREATE INCREDIBLE HARM IN THIS
19 COUNTRY IS AN UNDERSTATEMENT.

20 SO THAT'S NOT TO TAKE AWAY THE FACT OF THE POSITIVE
21 THINGS YOU BRING BEFORE THE COURT. YOU'RE AN INTELLIGENT
22 WOMAN. YOU'RE YOUNG -- I SEE 18 AND 19-YEAR OLDS, SO I DON'T
23 CONSIDER YOU ALL THAT YOUNG, BUT RELATIVELY SPEAKING YOU'RE A
24 YOUNG WOMAN, AND YOU'VE GOT A BRIGHT FUTURE, PROVIDED THAT YOU
25 DEAL WITH THIS SITUATION IN THE APPROPRIATE WAY AND TAKE

1 ADVANTAGE OF WHAT'S GOING TO BE PROVIDED TO YOU.

2 THE BIGGEST OBSTACLE YOU'LL HAVE, MA'AM, IS THE
3 ADDICTION. WHATEVER PERIOD OF TIME THE COURT IMPOSES BY WAY OF
4 CUSTODIAL TIME, YOU WILL GO INTO THE RESIDENTIAL DRUG AND
5 ALCOHOL ABUSE TREATMENT PROGRAM, WHICH IS ONE OF THE BEST
6 RESIDENTIAL TREATMENT PROGRAMS IN THE COUNTRY. IT WILL PROVIDE
7 YOU THE RESOURCES TO STAY CLEAN AND SOBER AND TO MAKE BETTER
8 DECISIONS WHEN YOU GET OUT.

9 I'LL ALSO IMPOSE A SIMILAR CONDITION FOR YOUR
10 SUPERVISED RELEASE PERIOD TO HELP YOU, BECAUSE I HOPE YOU
11 UNDERSTAND THAT EVERY DAY FOR THE REST OF YOUR LIFE STAYING
12 CLEAN AND SOBER IS WHAT'S GOING TO BE REQUIRED OF YOU, NOT TO
13 SPEND YOUR LIFE IN CUSTODY, BUT YOU ALSO HAVE TO KNOW THAT
14 THAT'S NOT EASY. I CAN SIT HERE AND I CAN SAY, "MS. KOWNACKI,
15 STAY CLEAN AND SOBER, IT'S IN YOUR BEST INTERESTS," BUT YOU
16 HAVE TO FIGHT EXTRAORDINARILY HARD TO DO THAT. WHEN TOUGH
17 TIMES HIT, AND TOUGH TIMES WILL HIT, THERE WILL BE OTHER BAD
18 MOMENTS IN YOUR LIFE, MS. KOWNACKI, BECAUSE THAT'S THE WAY LIFE
19 IS, YOU CAN'T REVERT BACK TO A SUBSTANCE.

20 AND THE ABILITY TO TURN ELSEWHERE, TO TURN TO ONE OF
21 THE PEOPLE IN THE AUDIENCE HERE, TO TURN IN ANOTHER DIRECTION,
22 TO THINK OF YOUR DAUGHTER AND HER NEED TO BE WITH YOU, WHATEVER
23 YOU NEED TO DO, MA'AM, IT CAN'T BE REVERTING TO THE ADDICTION.

24 SO I UNDERSTAND ALL OF THIS. I'M GOING TO CALCULATE
25 THE GUIDELINES, AND I'M GOING TO EXERCISE MY DISCRETION UNDER

1 3553(A) AND HOPEFULLY COME UP WITH A SENTENCE THAT'S SUFFICIENT
2 BUT NOT GREATER THAN NECESSARY, TAKING INTO ACCOUNT ALL OF
3 THESE CIRCUMSTANCES, MA'AM.

4 I HAVE SPENT A LOT OF TIME THINKING ABOUT YOU. I READ
5 YOUR LETTER A COUPLE OF TIMES. I READ YOUR FATHER'S LETTER A
6 COUPLE OF TIMES. ALL THE LETTERS AND SUPPORTING DOCUMENTS THAT
7 CAME IN, I WENT THROUGH ON MORE THAN ONE OCCASION, MA'AM.

8 I THINK YOU'VE LEARNED THE HARD WAY THAT WHEN YOU'RE
9 TERRIFIED, AND WHEN YOU'RE SCARED, RUNNING AWAY DOESN'T COUNT.
10 IT'S LIKE A HIT AND RUN ACCIDENT. SOMEBODY WHO HITS SOMEBODY
11 COULD JUST HAVE A TRAFFIC TICKET, IF EVEN THAT, BUT WHEN THEY
12 RUN AWAY THE CRIME GETS MUCH WORSE. YOU WERE IN A SITUATION
13 WHERE THE GUIDELINE RANGE SCARED YOU, AND I CAN UNDERSTAND
14 THAT, IT WOULD SCARE ANYBODY, BUT RUNNING AWAY MADE IT WORSE
15 AND I THINK CAUSED EVERYBODY, I THINK, TO RAISE THEIR
16 RECOMMENDATIONS TO A LARGE EXTENT.

17 IN ANY EVENT, LET ME BEGIN BY MAKING THE FINDINGS, MS.
18 KOWNACKI, AND I WILL EXPLAIN AS I GO THROUGH THIS. THE BASE
19 OFFENSE LEVEL IS A 38. BECAUSE OF IMPORTATION OF METH, I'M
20 GOING TO ADD A PLUS 2. AS I'VE INDICATED, LOOKING AT ALL THE
21 FACTS IN YOUR CASE, I DON'T BELIEVE MINOR ROLE IS APPROPRIATE
22 HERE AND I'M NOT GOING TO GIVE MINOR ROLE, BUT I HAVE SAID I
23 WILL EXERCISE DISCRETION IN THIS MATTER.

24 YOU'VE ACCEPTED RESPONSIBILITY HERE, AND THAT'S A
25 3-POINT REDUCTION, ALWAYS THE BETTER COURSE OF CONDUCT, MS.

1 KOWNACKI, WHEN WE MAKE A HORRIBLE CHOICE SUCH AS THIS ONE.

2 I WANT YOU TO UNDERSTAND, MA'AM, AS I GO THROUGH THIS
3 CALCULATION I'M EXERCISING DISCRETION. PROBATION SAYS YOU
4 HAVEN'T ACCEPTED RESPONSIBILITY. THEY DON'T GIVE YOU THE
5 3 POINTS IN THEIR CALCULATION. AGAIN, I WANT YOU TO UNDERSTAND
6 IT'S NOT AN UNREASONABLE POSITION GIVEN YOUR POST-ARREST
7 CONDUCT IN THIS CASE WHERE YOU LEFT AND ABSCONDED. I DO THINK
8 YOU DESERVE THE ACCEPTANCE AT THIS JUNCTURE, AND I'M GIVING YOU
9 THAT.

10 MY TOTAL OFFENSE LEVEL IS NOW A 37. YOU'VE GOT 3
11 CRIMINAL HISTORY POINTS. YOU'RE IN CRIMINAL HISTORY
12 CATEGORY 2, AND THAT'S THE RANGE OF IMPRISONMENT OF 235 TO
13 240 MONTHS BECAUSE IT'S MAXED OUT AT THAT POINT. THE RANGE
14 ACTUALLY GOES HIGHER.

15 YOU'RE ENTITLED TO A 4-POINT REDUCTION FOR FAST-TRACK.
16 I'M CERTAINLY GOING TO GIVE YOU THAT, MS. KOWNACKI. THAT TAKES
17 US DOWN TO A TOTAL OFFENSE LEVEL OF 33.

18 I'M GOING TO TAKE A 3-POINT REDUCTION FOR COMBINATION
19 OF CIRCUMSTANCES, WHICH TAKES ME DOWN TO A TOTAL OFFENSE LEVEL
20 OF 30 AND A RANGE OF 108 TO 135 MONTHS.

21 NOW, I'VE INDICATED THAT I'M GOING TO UTILIZE THE
22 3553(A) FACTORS BECAUSE EVEN THOUGH MY CALCULATION'S BELOW THE
23 GOVERNMENT'S AT THIS JUNCTURE, 108 MONTHS IS TOO LONG, MA'AM.
24 IT'S MORE THAN SUFFICIENT. SO AGAIN UNDER THE 3553(A) FACTORS,
25 I'M LOOKING AT THE NATURE AND CIRCUMSTANCES OF THE OFFENSE.

1 I'M LOOKING AT YOUR HISTORY AND YOUR CHARACTERISTICS. I'M
2 LOOKING AT THE NEED TO PROMOTE RESPECT FOR THE LAWS IN THIS
3 COUNTRY AND FOR JUST PUNISHMENT. IT ALSO HAS TO REFLECT THE
4 SERIOUSNESS OF THIS OFFENSE. I HAVE TO PROTECT THE PUBLIC. I
5 HAVE TO AVOID UNWARRANTED SENTENCING DISPARITIES, AND THOSE ARE
6 EVERYTHING THAT I TAKE INTO ACCOUNT, MA'AM, IN DOING THIS.

7 I'M GOING TO GO DOWN APPROXIMATELY 5 LEVELS, IF ANYBODY
8 IS LOOKING AT THE CHARTS, AND I'M COMING UP WITH -- I'M SAYING
9 THIS SO PEOPLE UNDERSTAND WHAT I'M DOING HERE. BASICALLY IT'S
10 PURSUANT TO 3553(A), AND I'M GOING TO IMPOSE A SENTENCE OF
11 63 MONTHS IN THE CUSTODY OF THE BUREAU OF THE PRISONS. I
12 BELIEVE THAT'S SUFFICIENT BUT NOT GREATER THAN WHAT'S
13 NECESSARY, MS. KOWNACKI, GIVEN THE FACTS AND CIRCUMSTANCES OF
14 YOUR CASE.

15 NOW, WHILE YOU'RE IN CUSTODY, YOU CAN DO A NUMBER OF
16 THINGS. I THINK THE MOST IMPORTANT THING IS TO GET YOU INTO
17 THE RDAP PROGRAM. I WILL GET YOU INTO THAT PROGRAM. I WILL
18 DESIGNATE, WASECA, MINNESOTA. YOUR COUNSEL TELLS ME THEY DO
19 HAVE THE RDAP PROGRAM. THAT WILL GIVE YOU THE ABILITY TO
20 WITHSTAND FALLING BACK INTO THE ADDICTION THAT YOU SUFFER FROM,
21 MA'AM, AND PROBABLY CONTINUE TO SUFFER FROM, BUT IN ADDITION,
22 IF YOU SUCCESSFULLY COMPLETE THAT PROGRAM, THERE WILL BE SOME
23 CUSTODIAL CREDIT AGAINST THE TIME YOU NEED TO SERVE.

24 I NOTE THAT YOU HAVE A HIGH SCHOOL DIPLOMA; IS THAT
25 CORRECT, MA'AM?

1 THE DEFENDANT: YES.

2 THE COURT: HAVE YOU EVER TAKEN ANY COLLEGE COURSES?

3 THE DEFENDANT: I ALMOST HAVE MY ASSOCIATES IN
4 COMMUNICATION.

5 THE COURT: WHILE YOU'RE IN CUSTODY, MA'AM, YOU COULD
6 PROCEED AND YOU COULD TAKE -- YOU COULD TAKE FURTHER COLLEGE
7 CREDITS. YOU COULD GET A FOUR-YEAR DEGREE WHILE YOU'RE THERE.
8 THERE'S ALSO VOCATIONAL TRAINING. YOU NEED TO MAKE PRODUCTIVE
9 USE OF YOUR TIME BECAUSE WHEN YOU GET OUT YOU NEED TO STAY,
10 NUMBER ONE, CLEAN AND SOBER. NUMBER TWO, SUPPORT YOURSELF IN A
11 LEGITIMATE WAY AND YOUR DAUGHTER. THOSE WILL BE THE THINGS YOU
12 DO WHILE YOU'RE IN CUSTODY.

13 I'M GOING TO IMPOSE THREE YEARS OF SUPERVISED RELEASE
14 FOLLOWING THIS TIME IN CUSTODY, AND THAT'S A TIME THAT YOU CAN
15 THINK OF AS SIMPLY WHEN YOU'RE NOT TO VIOLATE ANY LAWS, STATE,
16 FEDERAL OR LOCAL. IN ADDITION, THERE ARE SOME SPECIAL
17 CONDITIONS THAT ARE GOING TO APPLY:

18 THE FIRST IS YOU'RE NOT TO ENTER OR RESIDE IN MEXICO
19 WITHOUT PERMISSION OF THE COURT OR PROBATION.

20 THE SECOND IS A CONTINUATION OF THE DRUG AND ALCOHOL
21 ABUSE TREATMENT PROGRAM. YOU'RE GOING TO CONTINUE IN A PROGRAM
22 THAT'S GOING TO INCLUDE TESTING AND COUNSELING AS DIRECTED BY
23 PROBATION, AND WE'LL RELEASE THE TREATMENT PROVIDER THE
24 INFORMATION FROM THE PRESENTENCE REPORT, AND YOU MAY BE
25 REQUIRED TO CONTRIBUTE TO THE COST OF THIS, BUT ONLY IF YOU

1 HAVE THE ABILITY TO DO SO.

2 THE THIRD CONDITION IS THAT YOU REPORT ALL VEHICLES
3 THAT YOU OWN OR OPERATE OR IN WHICH YOU HAVE AN INTEREST TO
4 PROBATION.

5 THE NEXT CONDITION IS A SEARCH CONDITION, MS. KOWNACKI,
6 THAT YOU SUBMIT YOUR PERSON, YOUR PROPERTY, YOUR RESIDENCE,
7 YOUR OFFICE, YOUR VEHICLE TO A SEARCH CONDUCTED BY PROBATION,
8 PROVIDED THE SEARCH IS DONE AT A REASONABLE TIME, IN A
9 REASONABLE MANNER, BASED ON A REASONABLE SUSPICION OF
10 CONTRABAND OR EVIDENCE OF A VIOLATION OF A CONDITION OF YOUR
11 RELEASE. IF YOU DO NOT AGREE TO A SEARCH, THAT CAN BE GROUNDS
12 FOR REVOKING YOUR PROBATION. WHOEVER LIVES WITH YOU NEEDS TO
13 KNOW THAT THE HOME IS SUBJECT TO SEARCH.

14 I'M ALSO GOING TO INCLUDE THE STANDARD MENTAL HEALTH
15 CONDITION AS SUGGESTED, AND I THINK IT'S A GOOD SUGGESTION BY
16 PROBATION.

17 I'M NOT GOING TO IMPOSE A FINE. AGAIN, I WANT YOU TO
18 UNDERSTAND THAT IT WAS NOT UNREASONABLE OF PROBATION TO SUGGEST
19 THAT. I'M GOING TO IMPOSE \$100 AS A SPECIAL ASSESSMENT, AND
20 YOU CAN WORK THAT OFF WHILE YOU'RE IN CUSTODY.

21 IN YOUR PLEA AGREEMENT, MS. KOWNACKI, ON PAGES 11 AND
22 12, YOU GAVE UP YOUR RIGHT TO APPEAL OR COLLATERALLY ATTACK THE
23 JUDGMENT IN THIS CASE AND THE SENTENCE THAT I IMPOSED. DO YOU
24 UNDERSTAND THAT?

25 MR. KIRBY: YOUR HONOR, ACTUALLY, BY TERMS OF THE

1 GOVERNMENT'S PLEA AGREEMENT SHE DOES HAVE A RIGHT TO APPEAL ON
2 THE MINOR ROLE ISSUE.

3 THE COURT: ON THE MINOR ROLE ISSUE?

4 MR. KIRBY: ON THE MINOR ROLE.

5 THE COURT: THAT'S FINE.

6 MR. KIRBY: YOUR HONOR, I'LL FILE THE NOTICE.

7 THE COURT: OKAY. VERY WELL.

8 SO YOU HAVE THE APPELLATE RIGHT WITH REGARD TO THE FACT
9 THAT THE COURT DID NOT GIVE YOU MINOR ROLE, MA'AM; DO YOU
10 UNDERSTAND THAT?

11 THE DEFENDANT: YES, MA'AM.

12 THE COURT: WE'RE NOW GOING TO GIVE YOU COPIES OF THE
13 CONDITIONS THE COURT IMPOSED. THEY'RE PRINTED FOR YOU. KEEP
14 THAT PAPERWORK, MS. KOWNACKI, IT'S IMPORTANT FOR YOUR
15 REFERENCE.

16 IS THERE ANYTHING, MR. SAUSEDO, MR. KIRBY, MR. ENGLISH
17 THAT THE COURT DID NOT COVER?

18 MR. KIRBY: I DON'T BELIEVE SO, YOUR HONOR.

19 MR. SAUSEDO: NO, YOUR HONOR. THANK YOU.

20 THE COURT: MS. KOWNACKI, MAKE GOOD USE OF THE PROGRAMS
21 THAT ARE AVAILABLE TO YOU WHILE YOU'RE IN CUSTODY. THEY'RE
22 EXCELLENT PROGRAMS. THEY CAN BE VERY, VERY HELPFUL TO YOU.
23 YOU KNOW WHAT YOUR NUMBER ONE ISSUE IS, AND THE PROGRAM IN THE
24 FEDERAL BUREAU OF THE PRISONS IS ONE OF THE BEST IN THE
25 COUNTRY. I WISH YOU WELL. I HOPE THAT I CAN HEAR FROM MR.

1 KIRBY THAT YOU'RE DOING WELL AND THAT THIS DOES NOT DEFINE YOU.
2 I WOULD HOPE THAT IT DOESN'T, THAT YOU COME OUT WITH SOME
3 POSITIVE THINGS FROM YOUR TIME IN CUSTODY, MA'AM. I DO WISH
4 YOU WELL.

5 I WANT TO THANK EVERYBODY WHO CAME TODAY TO BE
6 SUPPORTIVE.

7 THE DEFENDANT: THANK YOU, YOUR HONOR.

8 MR. KIRBY: THANK YOU, YOUR HONOR.

9 (THE SENTENCING HEARING CONCLUDED.)
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13 C E R T I F I C A T E
14

15 I, GAYLE WAKEFIELD, CERTIFY THAT I AM A DULY
16 QUALIFIED AND ACTING OFFICIAL COURT REPORTER FOR THE UNITED
17 STATES DISTRICT COURT, THAT THE FOREGOING IS A TRUE AND
18 ACCURATE TRANSCRIPT OF THE PROCEEDINGS AS TAKEN BY ME IN THE
19 ABOVE-ENTITLED MATTER ON NOVEMBER 10, 2015; AND THAT THE FORMAT
20 USED COMPLIES WITH THE RULES AND REQUIREMENTS OF THE UNITED
21 STATES JUDICIAL CONFERENCE.

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DATED: DECEMBER 17, 2015 /S/ GAYLE WAKEFIELD
GAYLE WAKEFIELD, RPR, CRR
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